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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
08/702,625	08/23/96	KLUTH	H 11215/1556PC

IM11/0305

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EXAMINER

COONEY, J

ART UNIT PAPER NUMBER

1711

DATE MAILED: 03/05/99

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on 12/17/98

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 15-36, and 40-68 is/are pending in the application.
Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 15-36, and 40-68 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☒ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of Reference Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

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Applicant's arguments filed 12-17-98 have been fully considered but they are not persuasive.

All previous rejections are withdrawn in light of applicants' amendments and remarks, and in view of the following new grounds of rejection.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

~~15-36, and 40-68~~
Claims ~~15-68~~ are rejected under 35 U.S.C. 103(a) as being unpatentable over Pauls(4,263,412) in view of CA-2,084,698 (previously cited by applicants, and Minato et al.(5,086,175)(previously cited by applicants).

Pauls discloses preparations of polyurethanes dispensed from a pressure can for dispensing polyurethane foam materials wherein a foam precursor material comprising isocyanate group containing prepolymers, blowing agents, catalysts, and other additives is stored under pressure and foamed upon release (see the entire document).

Pauls differs from applicants' claims in that it does not particularly specify the removal of residual monomeric isocyanate from its reactive components. However, CA-2,084,698 and Minato et al. (see both documents in their entireties) set forth that the means for removing excess monomer from isocyanate based reactive materials has long been known to the art for the purpose of reducing toxicity. CA 2,084,698 sets forth the more commonly recognized distillation method, and Minato et al. discloses the film evaporation methods. Accordingly, it would have been obvious for one having ordinary skill in the art to have reduced residual monomer contents of the prepolymers placed in the systems of the Plaschka et al. by the methods set forth by CA-2,084,698 and/or Minato et al. for the purpose of reducing toxicity in order to arrive at the

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systems, processes, and products of applicants' claims in the absence of a showing of new or unexpected results.

CA-2,084,698 and Minato et al. are applied in much the same manner as set forth in the previous Office action. Their application is maintained to be proper even though they are not particularly concerned with foaming. The determination that a reference is from a nonanalogous art is twofold. First, it is decided if the reference is within the field of the inventor's endeavor. If it is not, then it must be determined whether the reference is reasonably pertinent to the particular problem with which the inventor was involved. *In re Wood*, 202 USPQ 171, 174; *In re Clay*, 23 USPQ.2d 1058. Disclosures of preparing isocyanate components for polyurethane synthesis having reduced monomeric isocyanate contents is at least pertinent to the endeavors of a referenced inventor who is using isocyanates in preparations of isocyanate components used in prepolymers which are dispensed from cans. The fact that the secondary references may not form foams does not negate their pertinence and relevance to the endeavor of preparing polyurethane products whose fundamental behaviors at a chemical level are not affected by the presence or absence of a blowing agent. Accordingly, it is maintained that an ordinary practitioner in the polyurethane arts would find the teachings of CA-2,084,698 and Minato et al. relevant and pertinent to the teachings of Pauls.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Cooney whose telephone number is (703)308-2433. The examiner can normally be reached on Monday - Friday from 9AM-6PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck, can be reached on (703) 308-2462. The Official fax phone number for this Group is (703) 305-3599, and the fax phone number which examiner can access for papers is (703)306-3429.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [james.seidleck@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1235.

JMC
2-24-99



JOHN M. COONEY, JR.
PRIMARY EXAMINER
GROUP 1700